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No. 565

In the Supreme Court of the United States

OCTOBER TERM, 1968

HELEN JENKINS KINGTON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 503

HELEN JENKINS KINGTON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

We invite the attention of the Court to the following facts which show that the petition for a writ of certiorari was filed out of time.

On June 11, 1968, the court of appeals affirmed the judgment of the district court dismissing petitioner's complaint (Pet. App. C, p. 40). The petition was filed on September 11, 1968, 92 days later, and no extension of time for petitioning was obtained.

Section 2101(c) of Title 28 U.S.C. provides that "any writ of certiorari intended to bring any judg-

ment or decree in a civil action * * * before the Supreme Court for review shall be * * * applied for within ninety days after the entry of such judgment or decree." Since this requirement is jurisdictional, the petition should be denied as untimely.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1968.

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